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11-CV-01459-CMP

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF
WASHINGTON AT SEATTLE

michael francis moynihan jr.,

Plaintiff,

vs.

KING COUNTY PROSECUTOR'S OFFICE,

Defendant,

Case No.: 11-CV-1459 RSM

COMPLAINT
under 5 USC § 552(a)(6)

Freedom of Information Act (FOIA) COMPLAINT
arising under 5 USC § 552 (a)(6)

michael francis moynihan jr., *Citizen in Party, Plaintiff, Complainant*, submits this FOIA - COMPLAINT arising under 5 USC § 552 (a)(6) in the United States District Court (USDC), against the defendant, Component agency, KING COUNTY PROSECUTOR'S OFFICE (KCPO), 500 4th Avenue, suite 900, Seattle, Wash.

KCPO (agency) is a lower federal administrative agency (executive branch) within administrative law principles it was created, conferred, and limited by the Legislature (Congress) in Revised Code of Washington at RCW 36.27. *et seq.* KCPO is an "it," a "U.S. person" with Tax Identification Number (TIN), (*See* 26 CFR § 301.6109-1b). Component agency is within the 1st Congressional District and in "this" STATE OF WASHINGTON ("a" territory as *other* property

No IFP/No Payment

- Art. IV, Sec. 3, Cl. 2), which are situated in The State of Washington (Art. IV, Sec. 3, Cl. 1). Enacted in compliance with Article I §7 of the US Constitution. The following authorities establish and preserve this requirement: Art. I §8.18 & Article III § 1 of the Constitution; 4 U.S.C. §72; and direct authority by Congress by order is governed under 44 U.S.C. § 1505(a).

"An administrative agency is a creature of statute (Soriano v. U.S., 494 F2d 681, 683 (9th Circuit 1974)" And;

5 USC § 552 (f) For purposes of this section, the term--

(1) "agency" as defined in section 551(1) of this title [5 USCS 551(1)] includes any executive department, military department, Government corporation, **Government controlled corporation**, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and (2) "record" and any other term used in this section in reference to information includes- (A) any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format; and (B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.

Relief: Complainant seeks a determination on failed performance for request KCPO of documents and information, according to directives within 20 days pursuant to 5 USC § 552 (a)(6)(ii). Thus, if on denial the USDC "shall notify" on "provisions for judicial review of that determination." Then, as governed by 5 USC § 552 (a)(4)(B), "On complaint, the district court of the United States [28 U.S.C. § 451]...in which the agency records are situated...has jurisdiction."

Prayer for relief here involves the acknowledgment request for Agency (KCPO) documents/information and request under 5 USC § 552 (a)(6), mentions that only the district court of the United States (28 USC 451) shall have jurisdiction. Plaintiff's most recent involvement with KCPO relates to also to documents in 310029745 tracking IU 04060.

Parties to this Complaint (APPEAL):

Complainant: michael francis moynihan jr., *Citizen in Party*, (Currently unlawfully imprisoned at 3025 Oakes Ave, G406, Everett, Wash.); (domiciled at 441 Main Ave. S. #32, North Bend, Wash., (425)766-1613.

Component Agency: KING COUNTY PROSECUTOR'S OFFICE, 500 fourth Avenue, Suite 900, Seattle, Wash.

Statement of Claim:

Complainant served (GR 3.1) Freedom of Information Act (FOIA) request upon above named KCPO. The FOIA s' included (ATTACHED) within this FOIA APPEAL is KCPO 6-23. KCPO met requests with silence in a "non-response."

KCPO has failed to "Provide submission...within" the 20 day time constraint "pursuant to the Act, under signature of someone that can hold agency to contract, official letterhead, and certify by as to affidavit of the original maintained in the office". KCPO has failed to document whether requested documents / information exists or not.

By denying a professional response KCPO is acting as a *de facto* authority.

Primary purpose of Freedom of Information Act (5 USCS 552), which provides generally for disclosure of agency records and information, is to open administrative processes to scrutiny of press and general public. *Renegotiation Bd. v Bannerkraft Clothing Co.* (1974) 415 US 1, 39 L Ed 2d 123, 94 S Ct 1028 And;

Congressional purpose in enacting Freedom of Information Act (5 USCS 552) was to establish general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language. *Docal v Benninger* (1981, MD Pa) 543 F Supp 38

The FOIA maintains nine exemptions, but KCPO has failed to declare "denial" under national defense or foreign policy, individual privacy interests, business propriety interests, and the efficient operation of governmental functions. FOIA gives a Citizen "(1) the right to see records about [one]self, subject to the Privacy Act's exemptions, (2) the right to amend that record if it is inaccurate, irrelevant, untimely, or incomplete, and (3) the right to sue the government for violations of the statute including permitting others to see [one's] records unless specifically permitted by the Act."


Freedom of Information Act does not vest original jurisdiction in Court of Appeals to enforce its terms. *Echols v NLRB* (1975, CA6) 525 F.2d 288, 91 BNA LRRM 2336, 78 CCH LC 11256. And;

In Freedom of Information Act, 5 USCS 552 case, federal **district court** [28 U.S.C. § 451] has jurisdiction over agency that allegedly violates Freedom of Information Act. *Parenti v IRS* (2003, WD Wash) 2003-1 USTC 50282, 91 AFTR 2d 1136, affd (2003, CA9 Wash) 70 Fed Appx 470, 2003-2 USTC 50616, 92 AFTR 2d 5668 [Emphasis]

1 Please give directives for submitting this COMPLAINT in district court of United States or send
2 to or file it on USDC s' own accord as governed by USC. Both 5 USC § 552 "for litigating" only
3 mention the DCUS, Federal Court for the state zone (28 U.S.C. § 451) as the proper forum
4 (exclusively). Injunction may be provided under Act by this court, or remove to DCUS.
5

6 DATED this day 31st day of August, 2011

7 Respectfully submitted,



8 michael francis moynihan jr.

9 Plaintiff, *Citizen in Party*

10 *Name and address of Plaintiff:*

11 michael francis moynihan jr.
12 3025 Oakes G406, Everett, Wash.
13 or c/o 441 Main Ave. S #32
14 North Bend, Wash.
15

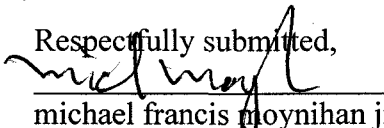
16 **AFFIDAVIT / CERTIFICATE OF SERVICE**

17 The undersigned hereby certifies under penalty of perjury under the laws of The State of
18 Washington, that on the date noted below, a true and correct copy of FOIA COMPLAINT -
19 APPEAL was placed into the SCSCB inmate mail services pursuant to GR 3.1, in postage paid
20 envelopes for delivery and/or transmittal in the U.S. Mail to:

21 (1) *Component Agency* KING COUNTY PROSECUTING ATTORNEY (KCPO), 500
22 fourth Avenue, Suite 900, Seattle, Wash.

23 DATED this day 31st day of August, 2011

24 Respectfully submitted,



25 michael francis moynihan jr.

Date: June 23, 2011

To: KING COUNTY PROSECUTOR'S OFFICE, Public Records Officer

From: michael francis moynihan jr.

Subject: INFORMATION REQUEST

Dear sir or Madam.

Pursuant to the provisions of the Washington State Freedom of Information Act, Public Records Act RCW 42.56 or 5 USC Section 552 as amended, I hereby make a formal request (KCPO 6-23) for certified copies of the following originals:

1. The document, as Oath of Office of JOHN W. COBB, John W. Cobb (#14304).
2. The document providing a copy of JOHN W. COBB, John W. Cobb 's pay stub, demonstrating that federal taxes are being deducted. An affidavit of US citizenship, federal tax accountability, and verification that a social security number has been assigned would suffice.

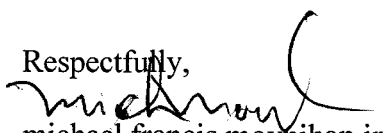
If any of the above documents do not exist please so state and certify that fact for each above instance by using such words as follows: I (name FOIA coordinator) certify that no such documents as above described in 1., 2., of request KCPO 6-23 exist in the files of (state where the files are located).

Fulfill request with cover page and requested page of the document described.

Provide the submission to the above within the time constraints pursuant to the Act, under signature of someone that can hold the agency to contract, official letterhead, and certify by as to affidavit of the original maintained in the office (state where the record is maintained).

Do not fulfill this request with computer or otherwise generated hearsay.

Respectfully,


michael francis moynihan jr.
c/o 441 Main Avenue S. #32
North Bend, Wash.